



500.12 Notice to Appear Arrests

Number Series: 500—Operational
Approved Date: July 20, 2018
Review Due Date: July 20, 2021

Sheriff's Approval: Digital
Review Frequency: 3- Years

POLICY

The Sheriff's Office conforms with the legislative intent in the issuance of the "Notice to Appear" summons in lieu of arrest, as set forth in the Florida Rules of Criminal Procedure. The Sheriff's Office also complies with the policy of the 20th Judicial Circuit for Hendry County in that persons arrested for misdemeanors of the first or second degree, County Ordinance violations or criminal traffic offenses are to be released at the scene of arrest, upon execution of a promise to appear in court, rather than be booked into the County Jail, unless the arresting Deputy has specific grounds to justify physical arrest and booking.

PROCEDURE

- A.** Deputies may use the Notice to Appear in lieu of a physical arrest when possible in accordance with limitations set forth below.
- B.** Deputies have the option to issue a Notice to Appear to any individual 18 years of age and over for whom probable cause exists that the individual has violated a misdemeanor statute or local ordinance.
- C.** A Notice to Appear will not be issued if any of the following circumstances exist:
 - 1. If the accused fails or refuses to provide adequate positive identification.
 - 2. The accused refuses to sign the Notice to Appear.
 - 3. There is reason to believe the accused may injure themselves or others if allowed to remain at liberty.
 - 4. The accused is to be charged with Domestic Violence, Violation of a Domestic Violence Injunction, or Stalking.
 - 5. The offense committed is of a violent or sexual nature.
 - 6. The accused exhibits disorderly or violent behavior.
 - 7. The accused does not reside in Hendry, Glades, Palm Beach, Collier, or Lee Counties.
 - 8. The accused has previously failed to appear.
 - 9. If the deputy has any suspicion that the accused may be wanted in any other jurisdiction.
- D.** Reports

1. Prior to issuing a Notice to Appear to a defendant, the narrative portion of the arrest affidavit must be completed in one of the following manners:
 - a. The four-part guideline used for all 'stand alone' reports, as found in 500.08 Field Reporting Procedures, or
 - b. A probable cause statement for the arrest with the notation that a case report will follow.

E. Search Incident to Arrest

1. The intent to issue a Notice to Appear/Criminal Uniform Traffic Citation for a criminal traffic infraction will affect the deputy's right to conduct a lawful search. The deputy may not conduct a search if the deputy intends on issuing a notice to appear for criminal uniform traffic citation unless the driver is physically placed under arrest and transported to jail.
2. If independent probable cause for a misdemeanor offense exists, other than a criminal traffic infraction that the deputy is intending on issuing a court date, a deputy may conduct a search incident to arrest in accordance with the United States Supreme Court ruling in *Arizona V. Gant* (2009) and issue a notice to appear upon completion of the investigation if the suspect meets with criteria set forth above in section C.

DEFINITIONS

NOTICE TO APPEAR – Court order summoning a person to appear in the court on the stated date.

REFERENCES

State/Federal Regulations:

Florida Rules of Criminal Procedure 3.125
United States Supreme Court ruling in *Arizona V. Gant* (2009)

CFA:

CFA Standards 2.02

Forms:

None

Other Policy/ Procedure References:

500.08 Field Reporting Procedures